

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLINTON GATT,

Plaintiff,

v.

Case No. 2:18-cv-10778
District Judge Gershwin A. Drain
Magistrate Judge Anthony P. Patti

COUNTY OF MACOMB,
LARRY RUIZ,
LAWRENCE HELHOWSKI,
BRENT WHITNEY,
BRANDON MEDLOW,
DANIEL ZALIWSKI,
CEDRIC ERKINS, and
WILLIAM EISENHARDT,

Defendants.

**ORDER GRANTING AS UNOPPOSED PLAINTIFF'S MOTION TO
COMPEL DISCOVERY AGAINST ALL DEFENDANTS (DE 19) and
CANCELLING HEARING NOTICED FOR SEPTEMBER 27, 2018 (DE 21)**

Currently before the Court is Plaintiff's August 24, 2018 motion to compel discovery against all Defendants. (DE 19.) Judge Drain referred this motion to me for hearing and determination, and a hearing has been noticed for September 27, 2018. (DEs 20, 21.)

Defendants have not opposed the instant motion. "A respondent opposing a motion must file a response, including a brief and supporting documents then available." E.D. Mich. LR 7.1(c)(1). "A response to a nondispositive motion must

be filed within 14 days after service of the motion.” E.D. Mich. LR 7.1(e)(2)(B). Thus, in the absence of a scheduling order stating otherwise, Defendants’ response to Plaintiff’s August 24, 2018 motion (DE 19) would have been due on or about September 10, 2018. *See* Fed. R. Civ. P. 6(a), 6(d). To date, Defendants have not filed a response.

Accordingly, Plaintiff’s August 24, 2018 motion to compel discovery against all Defendants (DE 19) is **GRANTED AS UNOPPOSED**. Specifically, Defendants are ordered to serve complete responses to Plaintiff’s First Set of Interrogatories to All Defendants and Plaintiff’s First Request for Production of Documents to All Defendants on or before **September 28, 2018**. The Court declines to award Plaintiff costs and attorney’s fees pursuant to Fed. R. Civ. P. 37(a)(5), however, because Plaintiff failed to effectively comply with Rule 37(a)(1) and E.D. Mich. LR 7.1. Plaintiff’s motion simply refers to two email communications generally inquiring about the status of the discovery responses, one dated three weeks before Plaintiff filed his motion, and the other eight days before. These communications fail to demonstrate or certify compliance with the specific requirements set forth in Rule 37(a)(1) and Local Rule 7.1 regarding the necessary good faith efforts to resolve the dispute without court action. *See* Fed. R. Civ. P. 37(a)(5)(A)(i) (the court may not order the payment of expenses and

attorney's fees if "the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action"). Finally, the hearing scheduled for September 27, 2018 (DE 21) is **CANCELLED**.

IT IS SO ORDERED.

Dated: September 18, 2018

s/*Anthony P. Patti*

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on September 18, 2018, electronically and/or by U.S. Mail.

s/*Michael Williams*

Case Manager for the
Honorable Anthony P. Patti